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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,249	10/02/2001	Nobuhiko Tsuda	Q61520	5228

7590 05/29/2002

Sughrue Mion Zinn Macpeak & Seas
2100 Pennsylvania Avenue NW Suite 800
Washington, DC 20037-3213

EXAMINER

TRUONG, DUC

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 05/29/2002

11

Please find below and/or attached an Office communication concerning this application or proceeding.



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T.D-11

Office Action Summary

Application No.
09/674,249

Applicant(s)
Tsuda et al.

Examiner
Duc Truong

Art Unit
1711



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 8 & 9 6) ☐ Other:

Art Unit: 1711

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 1-103670 of record on 1449.

The reference discloses the claimed fluorinated copolymer having a fluorine content of not less than 10 wt% and an intrinsic viscosity of 0.05-2dl/g as measured in tetrahydrofuran (see Abstract, Claims, page 2, upper right col., line 15; page 3, lower right col.; lines 6-12; page 4, upper left col.; line 10; page 5, upper right col., lines 2-6.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JP 63-83108 or JP-02-34605 of record on 1449.

JP 63-83108 discloses a fluorinated copolymer comprising tetrafluoroethylene as the fluorinated olefin constituent and a monomer containing a hydroxyl group or an epoxy group as the monomer constituent containing a functional group; on page 2, upper right col., lines 7-12 a statement that

Art Unit:

tetrafluoroethylene and hexafluoroethylene are used together; and on page 2, lower right col.,

lines 10-18 a statement that ethylene is used as the other copolymerizable constituent.

JP-02-34605 discloses a copolymer that is obtained by copolymerization of (I) a fluoro-olefin, (ii) a vinyl monomer containing a hydroxyl group, and (iii) another copolymerizable monomer, and constituent (I) is at least one item selected from the group consisting of tetrafluoroethylene and hexafluoropropylene; on page 3, upper left col. Line 19 to upper right col., line 12, a specific example of constituent (ii), and on page 3, upper right col., line 13 to lower right col., line 7 a statement that ethylene is used as constituent (iii).

The disclosure of the references differ from the instant claims in that they do not disclose the claimed fluorine content of not less than 10 % by weight and is insoluble in tetrahydrofuran.

However, the claims as presented are included in the broad teachings of the references. In view of this similarity, it would appear to be inherent that the product, a fluorine containing copolymer, having the claimed fluorine content of not less than 10% by weight and is insoluble in tetrahydrofuran could be prepared following the teaching of the references. See *In re Best*, 195 USPQ 430, 433 (CCPA 1977).

Any inquiry concerning this communication should be directed to Duc Truong at telephone number 703-308-2437.

Duc Truong

May 28, 2002



DUCTRONG
PRIMARY EXAMINER